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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,169	04/15/2004	Torsten Mann	4657	8602
21553	7590	07/06/2006	EXAMINER	
FASSE PATENT ATTORNEYS, P.A. P.O. BOX 726 HAMPDEN, ME 04444-0726			BEAULIEU, YONEL	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/826,169	MANN ET AL.	
	Examiner	Art Unit	
	Yonel Beaulieu	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-47 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24-47 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/15/04</u> . | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24 – 27, 29 – 33, 36, 38 – 40, 45 – 47 are rejected under 35

U.S.C. 102(b) as being anticipated by Claar et al. (US 5,254,996).

Regarding claims 24 – 33, 36, 38 - 42 and 45 - 47, Claar et al. teaches a portable handheld device in a data exchange system comprising a portable authorization device (1) required for enabling operation of a motor vehicle (not explicitly shown; note however, col. 5, lines 25 – 35 at least), a data memory (CS), a data input/output connected directly or indirectly to the memory (as illustrated in figs. 1-2 at least) which are adapted to communicate with a data processing device (within item 5) included in the motor vehicle and a terminal conductor external to the vehicle (col. 2, lines 22 – 64 at least). Claar's device is a vehicle key (col. 5, lines 25 – 27), the system further including a mechanically operative ignition lock adapted to mate with the ignition key (see figs. 1 – 3; col. 5, lines 57 – 62 at least); the key including a key blade protruding from a hand grip having electronic circuit components integrated on a chip encased therein (see fig. 4 at least) and components integrated on a smart card (as taught in col. 6, lines 45 – 55 at least), the device being adapted to communicate data to the

Art Unit: 3661

ignition lock to unlock and operate the lock, thereby enabling operation of the vehicle (col. 8, lines 53 – 62 at least); Claar further shows uni-directional data communication (fig. 1, via item 4) and bi-directional communication (fig.4, items 4 and 17) using vehicle-specific data (inside code memory CS), reception of wireless electromagnetic waves (col. 6, lines 25 – 32 at least) according to the Bluetooth™ specification (Claar's teaching uses short-range communication).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34 – 37, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claar ('996) as applied to claim 24 above and further in view of Suman et al. (US 6 028 537).

As discussed above, Claar teaches all of the limitations except for the data exchange being motor vehicle operator/driver-specific and the data exchange taking place at a manufacturer facility over the Internet.

However, Suman et al. teaches, in an analogous art, data exchange being motor vehicle operator/driver-specific and the data exchange taking place at a

Art Unit: 3661

manufacturer facility over the Internet (figs. 1a and 1B at least; col. 7, lines 17 – 65 at least).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Claar's teaching by including data exchange being motor vehicle operator/driver-specific and the data exchange taking place at a manufacturer facility over the Internet as evidenced by Suman et al. in order to enhance remote programming of the device.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (571) 272-6955. The examiner can normally be reached on Mon., Wed. & Thur. between 0900 and 1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yonel Beaulieu
Primary Examiner
Art Unit 3661